Appendix

CODE OF CIVIL PROCEDURE.

"(a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the inferior tribunal, corporation, board or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board or officer may be filed with the petition, may be filed with respondent's points and authorities or may be ordered to be filed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, such expense shall be taxable as costs.

"(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

"(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judg-

ment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence; and in all other cases abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

"(d) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (e) of this section remanding the case to be reconsidered in the light of such evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit such evidence at the hearing on the writ without remanding the case.

"(e) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

"(f) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of

appeal from the judgment or until the expiration of the time for filing such notice whichever occurs first; provided that no such stay shall be imposed or continued if the court is satisfied that it is against the public interest. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which such appeal is taken; provided that, in cases where a stay is in effect at the time of filing the notice of appeal, such stay shall be continued by operation of law for a period of twenty (20) days from the filing of such notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings." (Section 1094.5)

GOVERNMENT CODE.

"(a) The Director of the Department of Professional and Vocational Standards has power to appoint a staff of hearing officers for the department as provided in Section 110.5 of the Business and Professions

Code. Any agency requiring full-time hearing officers for the purposes of this act has power to appoint them for the particular agency. Each hearing officer shall have been admitted to practice law in this State for at least five years immediately preceding his appointment and shall possess any additional qualifications established by the State Personnel Board for the particular class of position involved.

"(b) All persons now employed or on reemployment lists or in the military service who, pursuant to and in accordance with the terms and provisions of their civil service classifications and prior to the effective date of this act, shall have performed functions similar to those of a hearing officer in an agency may act as hearing officers in the same agency and shall not be subject to the qualifications provisions of subdivision (a).

"(c) Full-time hearing officers serving pursuant to appointment under subdivision (a) shall be paid at the rate of not less than four thousand eight hundred dollars ($4,800) per year." (Section 11502)

INSURANCE CODE.

"The term 'merit rating,' as used in this article, includes 'schedule rating,' in which the rate is varied according to physical conditions, and also includes 'experience rating,' in which the experience of the particular insured is used as a factor in raising or lowering his rate." (Section 11730)

"The commissioner may approve or issue a comprehensive rating plan, for insurance covering projects involved in the prosecution of the war, under this article whenever he finds that the application of such plan is essential, convenient, or advisable in the prosecution of the war, and may, after hearing, modify or change such plan thereafter.

"Such comprehensive rating plan may include insurance other than workmen's compensation insurance and may modify or supersede the classification of risks and premium rates otherwise applicable. As a condition of the application of such plan the commissioner may, with respect to such other insurance, impose such rules and regulations and require the use of such rates or premiums as he finds necessary or advisable to secure and maintain adequate funds for the protection of employees and insurers operating under such plan. Violation of any such rule, regulation, or requirement is a violation of this article.

"This section shall remain effective until October 1, 1945, thereafter during the continued existence of the emergency proclaimed by the President of the United States under the date of September 8, 1942, and thereafter for such reasonable period, not exceeding one year after the termination of said emergency, as the commissioner finds necessary to avoid unfairness or disruption of business commenced while this section is effective. Any plan or provision approved by the commissioner prior to the date this section takes effect and conforming to the provisions of this section, shall continue in effect subject to this section." (Section 11730x)

"As used in this article, the term 'insurer' includes the State Compensation Insurance Fund." (Section 11731)

"The commissioner shall approve or issue, as adequate for all admitted workmen's compensation insurers, a classification of risks and premium rates relating to workmen's compensation insurance. He may also approve or issue a system of merit rating. Such classification and system shall be uniform as to all insurers affected." (Section 11732)

"The commissioner may pursuant to all grants of authority contained in this article with respect to workmen's compensation insurance and subject to all limitations therein approve or issue as adequate for all admitted workmen's compensation insurers a classification of risks and premium rates relating to employer's liability insurance incidental to and written in connection with workmen's compensation insurance. Such classification and rates may be included in those for workmen's compensation insurance or separate therefrom, and if issued or approved by the commissioner shall be binding upon insurers to the same extent as are the classifications and rates issued or approved for workmen's compensation insurance." (Section 11732.1)

"The commissioner shall not approve or issue any rating system or classification of risks and premium rates dealing with workmen's compensation insurance covering mining or mining property unless such system or classification provides for separation of risks and rates as to types of mining employments having different hazards or loss experience in accordance

with the hazard or loss experience involved. Such system or classification shall provide for separation at least of rates for office, surface and subsurface employment." (Section 11733)

"The commissioner may change any such classification or system previously approved or issued if he first holds a hearing to determine the effect of the proposed change upon the adequacy or inadequacy of rates. Such changes shall also be uniform as to all insurers affected." (Section 11734)

"Such classification or system shall take no account of any physical impairment of employees or the extent to which employees may have persons dependent upon them for support." (Section 11735)

"An insurer shall not issue, renew or continue in force any workmen's compensation insurance under a law of this State at premium rates which are less than the rates approved or issued by the commissioner. The effective date of such rates shall be the date fixed by the commissioner." (Section 11736)

"If the commissioner approves or issues such a system of merit rating, insurers may apply it to any risks subject thereto, but shall show basis rates no less than the rates under the classification approved or issued by the Commissioner. Any reductions from the basis rates on account of the application of such system of merit rating shall be clearly set forth in the insurance contracts or policies or indorsements attached thereto." (Section 11737)

"Nothing in this article shall affect the right of any insurer to issue compensation participating policies.

A refund by reason of a participating provision in a compensation policy shall not be made to policyholders by any insurer except from surplus accumulated from premiums on workmen's compensation policies issued pursuant to laws of this State governing workmen's compensation insurance." (Section 11738)

"The statistical and actuarial data compiled by the Industrial Accident Commission and the State Compensation Insurance Fund shall at all times be available to the commissioner for his use in judging the adequacy or inadequacy of rates and schedules filed. The manager of the State Compensation Insurance Fund, or other officers of the fund designated for such duty by the Industrial Accident Commission, shall render all possible assistance to the commissioner in carrying out the provisions of this article." (Section 11739)

"The commissioner may require every insurer issuing workmen's compensation insurance under the law of this State to file with its annual statement a sworn report of its loss experience, in such detail and form as the commissioner prescribes." (Section 11740)

"The commissioner may, after hearing, suspend or revoke any insurer's certificate of authority to write liability, workmen's compensation and common carrier liability insurance for violating any of the provisions of this article." (Section 11741)

"The violation of this article by any insurance broker, agent or solicitor, or by any insurer's employee is a misdemeanor." (Section 11742)

"A rating organization may be organized pursuant to this article and maintained in this State for the following purposes;

a. To provide reliable statistics and rating information in respect to workmen's compensation insurance and employer's liability insurance incidental thereto and written in connection therewith.

b. To collect and tabulate information and statistics for the purpose of developing minimum adequate premium rates to be submitted to the commissioner for issuance or approval.

c. To formulate rules and regulations in connection with issued or approved rates and the administration of classifications and rating systems and to present same to the commissioner for approval.

d. To inspect risks for classification or rate purposes and to furnish to the insurer and upon request of the employer and after notice to the insurer, to furnish to the employer full information concerning the rates applicable to his insurance.

e. To examine policies, daily reports, endorsements or other evidences of insurance for the purpose of ascertaining whether they comply with the provisions of law and to make reasonable rules governing their submission.

f. To make test audits of insured pay rolls and insurer's audits of such pay rolls to check the accuracy and reliability of such insurers' audits so that charging of premium at approved rates can be assured.

g. To exchange information and experience data with rating organizations, advisory organizations, and insurers in this and other states, in respect to rate making.

h. To become a member or subscriber of any lawfully authorized rate making or advisory organization whenever membership in such organization is necessary or helpful to the rating organization.

i. To perform all acts necessary, incidental or convenient to carry out the foregoing purposes or the provisions of this chapter relating to rating organizations." (Section 11750.3)

"Any person aggrieved by any decision, action or omission to act of a rating organization may request the rating organization to reconsider such decision, action or omission. If the request for reconsideration is rejected or is not acted upon within 30 days by the rating organization the person requesting reconsideration may within a reasonable time thereafter appeal from the decision, action or omission of the rating organization to the commissioner by filing a written complaint and request for a hearing specifying the grounds relied upon. If the commissioner has information on the subject appealed from and he believes that probable cause for the appeal does not exist or if he believes that the appeal is not made in good faith, he may deny the appeal without a hearing; otherwise, he shall hold a hearing to consider and determine the matter presented by the appeal." (Section 11753.1)